

Request for Proposal

RFP 02-602

PROJECT TITLE: Audit Services for CAFR

PROPOSAL DUE DATE: August 16, 2002 5:00 P.M. local time

INTRODUCTION:

Comprehensive Annual Financial Report

The Department of Retirement Systems (DRS) is currently soliciting proposals for the audit of the agency's comprehensive annual financial report (CAFR) for fiscal year 2002. DRS administers seven statewide public employee retirement systems, including thirteen pension plans. Three of the pension plans are hybrid defined benefit/defined contribution plans, and the other ten plans are defined benefit only. The State Investment Board (SIB) is the trustee of the pension funds and is responsible for the investment of the defined benefit monies. Defined contribution monies are self-directed by the retirement system members through a record keeper contracted with DRS.

DRS also administers a voluntary deferred compensation program (a 457 plan) and a dependent care assistance program. The participants of the deferred compensation program elect to defer a portion of their salary for the future. Participants self-direct their investments through a record keeper contracted with DRS. The dependent care program allows employees to reduce their taxable salary for eligible amounts paid for the care of dependents.

Outlined below are the engagement, required information, proposal deadline, and selection criteria.

Contracting Authority

As required by statute, DRS is audited annually as part of the state's Comprehensive Annual Financial Report. However, DRS prepares a separate Comprehensive Annual Financial Report. The department contracts annually for a separate audit of these financial statements, and also participates in the Government Finance Officers Association's certification process. Revised Code of Washington (RCW) 39.29 authorizes state agencies to enter into personal services contracts. Under this authority, DRS can contract with a CPA firm to perform audit work for the department. The CPA firm must be registered with the State Board of Accountancy pursuant to WAC 4-25-750.

Minority and Women Owned Businesses

DRS is an equal opportunity employer. Minority and women owned businesses are encouraged to reply. DRS requests that proof of certification by the Washington State Office of Minority and Women's Business Enterprises accompany the proposal.

ENGAGEMENT:

Project Description and Engagement Brief

This solicitation involves a financial audit of DRS' Comprehensive Annual Financial Report (CAFR) for fiscal year 2002. The CAFR includes five sections; introductory, actuarial, investment, statistical

and financial; however, the auditor's opinion is expected to cover the financial section only. The firm selected should have prior direct audit experience with governmental or pension entities.

The DRS website at <http://www.wa.gov/drs/agency/annualreport/index.htm> currently has the fiscal year 2001 CAFR available for review (**Exhibit 1**). Expected adjustments to the financial statements due to the implementation of GASB 34 are listed below. Also, one additional retirement plan was implemented in March 2002, and will be included in the fiscal year 2002 statements.

DRS was established by the Legislature in 1976 to administer state retirement systems. Currently, the department receipts and disburses more than \$100 million per month. At June 30, 2001, pension fund investments administered by the department exceeded \$46 billion.

Scope of Proposed Engagement

The scope of the audit will encompass accounting activity for the year ending June 30, 2002. The audit of the department must be performed in accordance with generally accepted auditing standards and other applicable procedures for the audit of a government's financial statements prepared in accordance with generally accepted accounting principles. The audit should include sufficient fieldwork to express an opinion on the financial position of the individual funds of the department and the results of operations of those funds for the year under audit. It is expected that the auditor will make confirmations, perform tests of the accounting records, and apply other auditing procedures necessary to express an opinion. In the event that circumstances arise during the audit that require work to be performed in excess of the original estimates, any additional costs will be negotiated prior to commencement of the work and an amended contract must be approved by the DRS management.

Changes Due to GASB 34

DRS will be implementing GASB 34 in the fiscal year 2002 financial statements. Based on the department's initial analysis, the major impact of implementation will be the addition of a Management Discussion and Analysis (MD&A) section in the financial statements. The inclusion of the MD&A will necessitate changes to the department's Letter of Transmittal included in the introductory section of the CAFR.

GASB 34 has changed the classification of the department's deferred compensation fund from an expendable trust fund to a pension trust fund, so it is expected to be included on the Statement of Changes in Plan New Assets with the other pension trust funds.

Treatment of the department's dependent care administrative fund, a special revenue fund, is still in question. Since this is the only fund the department would have to present on government-wide financial statements, we have requested direction from the GASB on treatment of this minor administrative fund.

Audit Administration

The audit will be coordinated with management staff from DRS.

Working Papers

The original working papers, including electronic files, generated in connection with this engagement will be the property of the auditor. However, work papers will be made available to DRS upon

request. Work paper retention will be in accordance with the state retention schedule. Any public records access will be coordinated through DRS.

Reports

All reports shall be submitted to Cathy Cale, Fiscal Manager.

Proposal Contract

The contract will be for the audit of the financial statements beginning with the fiscal year ending June 30, 2002. The contract may be renewed each year at the option of DRS for up to five (5) years. Sample Audit Contract is attached as **Exhibit 2**.

Audit Time Line

Initial planning and preliminary interviews with DRS staff may begin after ten (10) working days following the date of filing the contract with the Office of Financial Management. A first draft of the CAFR is expected to be available to the auditor by October 29, 2002. **The audit must be completed and the report delivered to DRS by December 3, 2002.**

GENERAL INFORMATION:

Public Disclosure

Proposals received are subject to public disclosure. The vendor shall clearly identify proprietary information by marking "confidential" on specific information. In the event DRS receives a public disclosure request for proprietary information, DRS will notify the vendor and the date such records will be released unless the vendor obtains a court order from a court of competent jurisdiction enjoining disclosure.

RFP and Response Included in Contract

The general conditions and specifications of the RFP and the successful vendor's response will become part of the contract by reference only.

Revisions To The RFP

In the event it becomes necessary to revise any part of the RFP, addenda will be posted on the DRS website. The Department reserves the right to revise the RFP and/or to post addenda to the RFP. The Department also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

Reference Checks

In addition to the information provided in your proposal, DRS reserves the right to obtain additional information concerning the vendor pertinent to this RFP from any and all sources, and to consider such information in evaluating the responses and selecting the Apparent Successful Vendor.

Rights of Data

Data which originates from the Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by DRS. Data shall include, but not be limited to, reports, documents, letters, publications, brochures, notices, forms, pamphlets, advertisements, surveys, studies, and/or computer programs and shall be made available to DRS in a useable electronic format as requested. Ownership includes the right to obtain and transfer this data at the discretion of DRS.

Information Session

An informal information session will be held on Friday, August 9, 2002 between 2:30 p.m. and 4:30 p.m. at the Department of Retirement Systems, 6835 Capital Blvd, Olympia, WA. Firms interested in responding to this request for proposals will have access to DRS staff and prior CAFRs at that time.

REQUIRED INFORMATION:

Proposal Required Information

Failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive. DRS also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

The proposal shall have four sections:

Section 1: Certifications of Assurances (Attachment A)

Section 2: Proposer's Information (Attachment B)

Section 3: Cost Schedule (Attachment C)

Section 4: Approach to Engagement

The proposer shall provide a completed and signed copy of the **Certifications of Assurances** (Attachment A), **Proposer's Information** (Attachment B), **Cost Schedule** (Attachment C), and the **Approach to Engagement** section.

The **Approach to Engagement** section should be concise and contain the following information:

- A statement that the individual auditors who will be planning, directing, conducting and reporting on the engagement are free from personal and external impairments to independence.
- Assurances to the qualifications of the firm and the individual auditors assigned to perform the audit, including experience and proficiency in governmental audits and audits of similar type funds.
- A brief description of the firm's prior experience and include two business references. Include the following information: business name, the business contact, address, phone number, company's primary business, and the audit services, dates and percent of audit work performed, and type of report you provided.
- Assurance of the firm's ability to complete the audit and deliver the work product within required deadlines. **Please provide a proposed time line for starting and completing the audit (deadline of December 3, 2002 for this fiscal period).**
- A statement that the firm is registered with the State Board of Accountancy pursuant to WAC 4-25-750, and that the firm participates, as applicable, in the AICPA practice-monitoring or an equivalent peer review program and has had a peer review during the last three years.
- A statement that the firm is willing to comply with the terms and conditions of the accompanying sample audit services contract. The contract will be amended to meet the terms of this proposal.
- A statement that the firm, upon selection, will provide to DRS a Proof of Insurance Certificate meeting the insurance requirements as stipulated in the accompanying sample audit services contract under general terms and conditions.

Cost Schedule

An all-inclusive rate is defined as the total sum to complete each audit for a fiscal period. A specified fee to conduct the audit (for each audit period in proposal) is required. See Cost Schedule (Attachment C). The all-inclusive fee includes all costs of any administrative expenses, travel, cost of doing business, telephone conferences, drafts of documents, and any federal, state, and local taxes. The vendor is responsible for calculating the additional time required for any revisions and corrections as part of the inclusive fee. Any additional charges will not be paid.

PROPOSAL DEADLINE:

One set with original signature plus three (3) copies of the signed proposal shall be submitted to DRS. Faxed or e-mailed responses will not be accepted. Your response must be received in the DRS office no later than **Friday, August 16, 2002, at 5:00 p.m., Pacific local time. Proposals will be accepted via U.S. mail or delivered to the DRS office at 6835 Capital Blvd., Tumwater, Washington.**

Address your proposal to:

Cathy Cale, Fiscal Manager
Department of Retirement Systems
P.O. Box 48380
Olympia, WA 98504-8380

Late submittals will not be accepted. You are responsible to ensure that DRS received the proposal you sent. Any costs in the preparation of the response to this solicitation are solely the responsibility of the vendor. Only the vendors that responded with offers will be notified of DRS' decision. A debriefing conference and the protest procedures will be included in the notification.

SELECTION CRITERIA:

Proposals will be evaluated by DRS, based upon the completeness of the response, the appropriateness of the candidates' qualifications to meet DRS' audit needs, approach to engagement, cost of services, and quality of previous performance. The following criteria will be used to evaluate the proposals:

- Proposed fees (for current and renewable periods, if applicable). 20 pts
- Qualifications, training and experience of the firm/proposed auditors in auditing similar type funds. 50 pts
- Approach to and experience in auditing. 15 pts
- Quality of previous performance with the firm and/or proposed auditors. 15 pts

Each criterion will be rated as noted with maximum points awarded for the most favorable option. A maximum of 100 points is possible. DRS reserves the right, at its sole determination and discretion, to waive minor administrative irregularities contained in any proposal.

In the selection process, DRS reserves the right to interview the top finalists at the Tumwater DRS office. If finalists' interviews are necessary, they will be scheduled for the week of August 19, 2002. Failure to make oneself available for a finalist interview may result in removal from further consideration. The evaluation process is expected to be completed by August 26, 2002. This schedule is subject to change. DRS reserves the right, at its sole discretion, to waive minor administrative irregularities contained in this RFP.

Questions concerning this solicitation may be directed to Amy Wong at (360) 664-7295. DRS reserves the right to reject any and all bids/proposals. Thank you for your interest.

Index of RFP		RFP Section Heading
Attachment A	Certifications and Assurances	Required Information
Attachment B	Proposer's Information	Required Information
Attachment C	Cost Schedule	Required Information
Exhibit 1	Fiscal year 2001 CAFR on website: http://www.wa.gov/drs/agency/annualreport/index.htm	Engagement Information
Exhibit 2	Sample Audit Contract	Proposal Contract

Certifications and Assurances

I/We make the following certifications and assurances as a required element of the solicitation document to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements and all requirements of the Request for Proposal (RFP) are conditions precedent to the award or continuation of the related Agreement(s).

1. The prices quoted in the response to which this Certification and Assurances is attached (the Response), have been determined independently, without consultation, communication or agreement with others for the purpose of restricting competition.
2. The attached Response is a firm offer for a period of ninety (90) days following the Response Due Date specified in the RFP, and it may be accepted by the Washington State Department of Retirement Systems without further negotiation at any time within the ninety (90) day period. In the case of protest, the protester's Response remains valid until the protest is resolved or the ninety (90) day offer period expires, whichever is later.
3. In preparing this Response, I/We have not been assisted by any current or former employee of the State of Washington whose duties relate (or did relate) to this particular RFP, or prospective Agreement, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
4. I/We understand that the Department of Retirement Systems will not reimburse us for any costs incurred in the preparation of this Response. All Responses become the property of the Department of Retirement Systems, and I/we claim no proprietary right to the ideas, writings, items or samples unless so stated in the Response. Submission of the attached Response constitutes agreement to abide by the procedures described in the RFP document.
5. I/We understand that any Agreement awarded as a result of this Response will incorporate all the RFP requirements, the contents of this Response and all Terms and Conditions appearing in the sample contract of the RFP. Submission of a response and execution of this Certifications and Assurances document certify vendor's willingness to comply with these or substantially similar terms if selected as a Contractor.
6. I/We assure that a Certificate of Insurance will be provided within 15 days after the execution of a contract in compliance with specifications stated in the sample contract of the RFP.
7. I/we understand that any person(s) selected as contractor(s) will be required to comply with the federal and state laws regarding Title VI of the Civil Right Act of 1964 (42 USC 200d), Section 504 of the Rehabilitation Act of 1973 (29 USC 794) and Chapter 49.60 RCW. I/we will, if requested by the Department of Retirement Systems, submit additional information about the nondiscrimination and affirmative action policies and plans of this organization in advance of or after the contract award.

Vendor (or Authorized Representative) **original** Signature: _____

Print Name: _____

Vendor Name

Title: _____

E-mail address: _____

Phone Number: _____

Proposer's Information

Vendor Identifying Information: Please provide following required vendor information.

1. Vendor Name and Address: Name, address, principle place of business, and telephone number of legal entity with whom contract is to be written.

Name: _____
Address: _____
City, State, Zip: _____
Phone: () _____
Web Page: _____

2. Location Address (if different)

Address: _____
City, State, Zip: _____

3. Principle Officers: Name, address and business telephone number of the principle officers (e.g.: President, Vice President, Treasurer, Board Chairperson) of the Vendor organization.

Name/Title: _____
Name/Title: _____
Name/Title: _____
Name/Title: _____

4. Organization and Year: Legal status and business structure (corporation, partnership, sole proprietorship, etc.) of the Vendor and the year entity was established.

Status: _____

5. Employer Identification

Fed. I.D. _____
UBI (Revenue Registration Number) _____
If applicable, the firm's Minority
Business Enterprise Certification
Number. _____

6. RFP Contact: Name, title, address, email, phone and fax numbers for Vendor's RFP Contact.

Name: _____
Address: _____
City, State, Zip: _____
Phone: () _____
Fax: () _____
E-Mail: _____

Cost Schedule

Fiscal Cycle	All-inclusive fee
FY 2002 July 2001-June 2002	
FY 2003 July 2002-June 2003	
FY 2004 July 2003-June 2004	
FY 2005 July 2004-June 2005	
FY 2006 July 2005-June 2006	

Name of CPA Firm

DEFINITION OF ALL INCLUSIVE FEE:

Fees shall include any administrative expenses, travel, and cost of doing business, telephone conferences, any federal, state, and local taxes. Vendor is expected to be on-site and travel to DRS place of business in Tumwater for meetings. The vendor is responsible for calculating the additional time required for any revisions and corrections as part of the inclusive fee. Any additional charges will not be paid.

2001 COMPREHENSIVE ANNUAL FINANCIAL REPORT

The DRS website at <http://www.wa.gov/drs/agency/annualreport/index.htm> currently has the fiscal year 2001 CAFR.

AUDIT SERVICES CONTRACT
BETWEEN THE
STATE OF WASHINGTON
DEPARTMENT OF RETIREMENT SYSTEMS
AND

CONTRACT DRS _____

THIS CONTRACT is between the State of Washington, Department of Retirement Systems, referred to as "DRS" or the "AGENCY" and _____, hereinafter referred to as the "CONTRACTOR":

Name
Address
Address
Telephone:
Fax:

Minority Business Enterprise Certification No.

Federal. I.D. No.

Washington State UBI No.

The AGENCY and CONTRACTOR mutually agree as follows:

All rights and obligations of the parties to this Contract shall be subject to and governed by those SPECIAL TERMS AND CONDITIONS contained in the text of this Contract, the GENERAL TERMS AND CONDITIONS, Exhibit A, and STATEMENT OF WORK, Exhibit B, each attached and incorporated by reference herein.

SPECIAL TERMS AND CONDITIONS

1. Purpose:

As required by statute, DRS is audited annually as part of the state's Comprehensive Annual Financial Report. However, DRS prepares a separate Comprehensive Annual Financial Report. The department contracts annually for a separate audit of these financial statements, and also participates in the Government Finance Officers Association's certification process. RCW 39.29 authorizes state agencies to enter into personal services contracts. Under this authority, the CPA firm is engaged to perform audit work for the department. The Contractor is to provide the services set out in the Statement of Work, Exhibit B.

2. Scope of Engagement:

The audit of DRS' Comprehensive Annual Financial Report for the fiscal year ending June 30, 2002 will be performed in accordance with generally accepted auditing standards. The work product will be an audit report expressing an opinion on the financial position of the department's funds and the results of operations for the year under the audit. The audit must be complete with delivery of the final report no later than December 3, 2002.

3. Effective Date and Duration of Contract:

- A. Subject to other contract provisions, the period of performance under this contract will be from date of signing through _____, unless sooner terminated as provided herein. Each _____, thereafter, DRS shall assess whether to extend auditing services.
- B. Under the provisions of Revised Code of Washington (RCW) 39.29, this personal service contract is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and if required, until approved by OFM. In the event OFM fails to approve the contract, the contract shall be null and void.
- C. No change in terms and conditions shall be permitted during these extensions unless specifically set forth in this Contract. The contract may be extended for up to five years. There is no guarantee that DRS will purchase the Contractor's auditing services.
 - 1) For each succeeding renewal year, the audit must be complete with delivery of the report by December 1st for the agreed-upon all-inclusive fee as follows:

Audit Period	All-inclusive fee
FY 2002 Year ended June 30, 2002	
FY 2003 Year ended June 30, 2003	
FY 2004 Year ended June 30, 2004	
FY 2005 Year ended June 30, 2005	
FY 2006 Year ended June 30, 2006	

4. Compensation:

- A. The Contractor agrees that the maximum amount to be paid to the Contractor under this contract shall not exceed \$ _____ in total for per fiscal audit report identified above, and is full payment for all work specified in the scope of work. The Contractor agrees that the fee is an all-inclusive fee. DRS is not responsible for providing transportation to and from the audit site and that any travel costs, insurance costs, or other out-of-pocket costs are the responsibility of the Contractor.
- B. Any additional services provided by the Contractor and/or Subcontractors would require a written contract amendment approved and processed through the DRS prior to beginning the additional services. In the event that circumstances arise during the audit that require work to be performed in excess of the original estimates, any additional costs will be negotiated prior to commencement of the work and an amended contract must be approved by the DRS management.

5. Contract Management:

- A. It is understood DRS is the client and all reports will be provided to DRS. DRS shall have the authority to monitor the performance of the Contractor, approve actions by the Contractor, and accept or reject any work product provided by the Contractor.

Department of Retirement Systems Contract Coordinator
Cathy Cale, Fiscal Manager
Administrative Services
PO Box 48380
Olympia, WA 98504-8380
Phone: (360) 664-7137
Fax: (360) 586-1925

Contractor Contract Coordinator
Phone:
Fax:

- B. It is agreed that Contractor's staff performing work under this contract will communicate requests for financial statements and other documents to the CAFR coordinator listed below:

Department of Retirement Systems CAFR Coordinator	Contractor's On-Site Auditor	Contractor's Lead Auditor or Auditor-in-Charge
Name: Pam Hansen	Name:	Name:
Phone: (360) 664-7244	Phone:	Phone:
Location: DRS Tumwater Office	Location: DRS Tumwater Office	Location:

6. Notification of Staff Changes:

It is understood that the named auditors above will be responsible throughout the period of this contract. Any changes in management personnel assigned to this engagement requires notification in the most expedient means available of such change within 48 hours to DRS. Failure to notify may be cause for breach and DRS is entitled to liquidated damages per calendar day for failure to notify. Subsequent written notification is for the record only and not a prerequisite for breach or ending the contract.

7. Communication Protocol:

- A. The CAFR Coordinator is the key contact for day-to-day communications during the audit and requests for materials and provide any necessary documents to on-site auditor(s). The DRS fiscal manager or designee will coordinate and monitor audit progress following the Statement of Work schedule of dates for deliverables. If irregularities, fraud, or other significant audit issues, which may impact the audit are suspected, the Contractor must immediately notify Cathy Cale, Fiscal Manager, at (360) 664-7137.
- B. As time is of the essence for this project, the Contractor agrees to have procedural steps in place to recover from unanticipated events that may cause delay. Such glitches may include software application, revisions, equipment failure, or natural disaster outside of the control of either party. The Contractor shall notify Cathy Cale at (360) 664-7137 of actions taken to mitigate risks of further delay.
- C. In subsequent fiscal years, within ____ weeks of the start of the contract extension, both parties will agree on a work plan, anticipated completion dates, the roles and responsibilities of each party to accomplish assigned tasks within specified dates for the following deliverables:
- 1) Preliminary draft of audit report
 - 2) Delivery of a signed Final Audit Report

8. Warranties:

- A. The Contractor warrants that staff performing work under this contract possess the adequate professional proficiency for the tasks required, is current in continuing education accounting credits, and is in good professional standing.
- B. The Contractor warrants that staff performing work under this contract are free from personal and external impairments to independence.
- C. The Contractor warrants that it is registered to practice public accounting in the State of Washington in accordance with WAC 4-25-750 and has had a peer review during the last three years.

9. Working Papers:

The Contractor agrees that working papers prepared in connection with this engagement are considered public documents. The Contractor performing the contract work will retain the working papers. The working papers must be maintained in accordance with established state retention schedules. Public requests for copies or viewing of work papers must be done through DRS' legal department.

10. Billing and Payment:

- A. The Contractor shall submit an invoice at the completion of the audit. The voucher will clearly indicate that it is for services rendered under the contract number. The invoice shall be for all services rendered under the contract.
- B. The invoice must be submitted for payment to DRS, Mark Feldhausen, Assistant Director, PO Box 48380, Olympia, Washington 98504-8380. Payment shall be considered timely if made by DRS within 30 days. DRS may, in its sole discretion, withhold payments owed the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of the contract. Notification of acceptance or rejection shall be made by the DRS within twenty (20) business days of receipt of the work product.
- C. Any additional services provided by the Contractor and/or Subcontractors would require a written contract amendment approved and processed through the DRS prior to beginning the additional services.

11. Liquidated Damages: In the event the Contractor fails to deliver the work product by December 3, 2002, the Contractor shall pay liquidated damages to DRS in the amount of \$500 per day.

12. Order Of Precedence: In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order: (a) Applicable Federal and State of Washington statutes and regulations, (b) Special Terms and Conditions as contained in this Contract, (c) General Terms and Conditions (d) DRS RFP 02-602, (e) Contractor's Response, (f) DRS guidelines, and any other provision, term or material incorporated herein by reference or otherwise incorporated.

13. Conflict of Law: If any provision of this contract shall be deemed in conflict with any statute or rule of law, such provision shall be deemed modified to be in conformance with said statute or rule of law.

14. Approval: This contract shall be subject to the written approval of DRS authorized representative and shall not be binding until so approved. The Contract may be altered, amended or waived only by a written amendment executed by both parties.

This contract is executed by the persons signing below, who warrant that they have the authority to execute the Contract.

Contractor	Department of Retirement Systems
Print Name:	Print Name: John F. Charles
Title: Date:	Title: Director Date:

CONTRACT DRS _____ Exhibit A

GENERAL TERMS AND CONDITIONS

DEFINITIONS -- As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "Contractor" shall mean _____, the firm, provider, organization, individual or other entity performing services under this contract, and shall include all employees of _____.
- B. "Contract Manager" shall mean the agency representative delegated as the authority to administer the Contract.
- C. "Fiscal Manager" shall mean the Contract Manager's designee.
- D. "Department" shall mean the Department of Retirement Systems or any of the officers or other officials lawfully representing the Department of Retirement Systems.
- E. "Director" shall mean the agency employee authorized by RCW 41.50.020 who serves as the executive and administrative head of DRS.
- F. "Guidelines" shall include the policies and procedures and other written instructions implemented by DRS.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.

CONTRACTOR NOT EMPLOYEE OF THE AGENCY – The Contractor and his or her employees or agents performing under this contract are not employees or agents of DRS. The Contractor will not hold himself or herself out as, nor claim to be, an officer or employee of DRS or of the state of Washington by reason of this contract, nor will he or she make any claim of right, privilege or benefit which would accrue to a civil service employee under RCW 41.06.

ASSURANCES -- DRS and the Contractor agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state and local laws, rules and regulations, and DRS guidelines.

CONTRACT AMENDMENT AND ASSIGNMENTS -- This Contract shall not be assigned, subcontracted, changed or modified without the written consent of both parties.

NONDISCRIMINATION -- During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS -- In the event of the Contractor's noncompliance with any nondiscrimination law, regulation, or policy, this contract may be rescinded, cancelled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the DRS. The Contractor shall be given a reasonable time to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

INDEMNIFICATION -- The Contractor shall protect, indemnify, and save the State of Washington, DRS or any employees thereof, harmless from and against any damage, cost, or liability, including but not limited to attorney's fees, for injury or death to persons or for damage or destruction of property, arising from the acts or omissions of the Contractor, its officers, employees, subcontractors in the performance of the contract. The indemnification obligation under this paragraph shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the

Contractor or any Subcontractor under the Workers' or Workmen's Compensation acts, disability benefit acts or other employee benefit acts.

INSURANCE –

- A. The Contractor shall not commence work under this contract until it has obtained all the insurance required and provided such documentation to DRS, nor shall the Contractor allow any Subcontractor to commence work on a subcontract until such Subcontractor has obtained insurance similar to that required hereunder for the Contractor. Companies writing the insurance under this article shall be licensed to do business in the state of Washington or be permitted to do business under the Surplus Line Law of the state of Washington.
- B. The Contractor shall take out and maintain, during the life of this contract:
1. Comprehensive general liability coverages with limits of not less than \$1 million for any one occurrence or \$1 million in the aggregate. Coverages are to include premises-operations, personal injury, operator's protective, products and contractual liability.
 2. Automobile liability coverages with limits of not less than \$1 million for any one occurrence. Coverages are to include all owned, hired and non-owned automobiles.
 3. Workers' Compensation and employer's liability coverages with Washington statutory limits and limits of not less than \$500,000 for employer's liability.
 4. Accountants' professional liability coverages with limits of not less than \$1 million for any one occurrence.
 5. The Contractor may purchase comprehensive general liability and property damage and comprehensive automobile bodily injury and property damage in a combined single limit policy of not less than \$1 million per occurrence.
 6. Any loss under any deductible amount is the sole responsibility of the Contractor.
- C. The insurance policy or policies required by this section shall name the state of Washington and DRS as an additional insured. Inclusion of the State of Washington and DRS as an additional named insured shall not create premium liability for the State of Washington and DRS. The insurer(s) shall waive subrogation against the State of Washington and DRS and a cross liabilities endorsement shall be included in the policy or policies. The policy or policies shall be primary over any other valid and collectible insurance. Such policy or policies shall not be materially changed or cancelled without at least forty- five (45) calendar days prior written notice to DRS. At least five (5) calendar days before the commencement of this contract, the Contractor shall provide DRS with an executed copy of the insurance policy or policies or certificate evidencing such insurance coverage.
- D. The Contractor is responsible for and shall require all service, delivery, and Subcontractor personnel to provide a certificate of insurance on their comprehensive general liability, automobile liability, Workers' Compensation and employer's liability, and accountants' professional liability coverages as described above.

COVENANT AGAINST CONTINGENT FEES -- The Contractor warrants that no person has been employed to solicit or secure this contract for a commission, percentage, brokerage or contingent fee. DRS shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

CONFLICT OF INTEREST -- DRS may, by written notice to the Contractor terminate this contract if it is found after due notice and examination by DRS that there is a violation of the State Ethics Law

Chapter 42.52 RCW or any similar statute involving the Contractor in the procurement of, or performance under, this contract. In the event this contract is terminated as provided above, DRS shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of DRS provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the DRS makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

TREATMENT OF ASSETS --

- A. Title to all property furnished by DRS shall remain with DRS. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the DRS upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in DRS upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost by the DRS in whole or in part, whichever first occurs.
- B. Any property of DRS furnished to the Contractor shall, unless otherwise provided herein or approved by DRS, be used only for the performance of this contract.
- C. The Contractor shall be responsible for any loss or damage to property of DRS which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- D. Upon loss or destruction of, or damage to DRS property, the Contractor shall notify DRS and shall take all reasonable steps to protect that property from further damage.
- E. The Contractor shall surrender to DRS all property of DRS prior to settlement upon completion, termination or cancellation of this contract.

RECORDS, DOCUMENTS AND REPORTS -- The Contractor shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by DRS, the state auditor, and federal officials so authorized by law, rule, regulation, or contract. The Contractor will retain all books, records, documents, and other materials relevant to this contract for six years after settlement, and make them available for inspection by persons authorized under this provision.

RIGHT OF INSPECTION -- The Contractor shall provide right of access to its facilities to DRS, or any of its officers, or to any other authorized DRS or official of the State of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAFEGUARDING OF INFORMATION -- The use or disclosure by any party of any information concerning DRS for any purpose not directly connected with the administration of DRS or the Contractor's responsibilities with respect to services provided under this contract is prohibited except by written consent of DRS. During the audit process, DRS will be given the opportunity to review and discuss the audit report for possible clarification before final release. Confidentiality will be

maintained throughout the audit process. When the final report is distributed, the working papers and report become public documents.

RIGHTS IN DATA -- Unless otherwise provided, data which originates from this contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by DRS. Data shall include, but not be limited to working papers, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights. Data which is delivered under the contract, but which does not originate therefrom shall be transferred to DRS with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; *Provided*, that such license shall be limited to the extent which the Contractor has a right to grant such a license. The Contractor shall exert all reasonable effort to advise DRS, at the time of delivery of data furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. DRS shall receive prompt written notice of each notice of claim of copyright infringement received by the Contractor with respect to any data delivered under this contract. DRS shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

REGISTRATION WITH DEPARTMENT OF REVENUE -- The Contractor shall complete registration with the Department of Revenue, General Administration Building, Olympia, WA 98504, and be responsible for payment of all taxes due on payments made under this contract.

LICENSING, ACCREDITATION AND REGISTRATION -- The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

INDUSTRIAL INSURANCE COVERAGE -- The Contractor shall provide or purchase industrial insurance coverage prior to performing work under this contract. DRS will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for this Contractor, or any Subcontractor or employee of the Contractor, which might arise under the industrial insurance laws during performance of duties and services under this contract.

ADVANCE PAYMENTS PROHIBITED -- No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by DRS.

SAVINGS -- In the event funding is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, DRS may terminate the contract under the "Termination for Convenience" clause, without the five-day notice requirement, subject to renegotiation under those new funding limitations and conditions.

LIMITATION OF AUTHORITY -- Only the Director of DRS or his designee shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Any alteration, amendment, or modification of this contract is not effective or binding unless made in writing and signed by DRS.

WAIVER OF DEFAULT -- Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the contract shall not be deemed to be a waiver of any subsequent breach and shall not be construed to be a modification of the terms of the contract unless stated to be such in writing, signed by DRS and attached to the original contract.

CHANGES AND MODIFICATIONS -- DRS may, at any time, by written notification to the Contractor and without notice to any known guarantor or surety, make changes in the general scope of the services to be performed under the contract. If any such changes cause an increase or decrease in the cost of, or the time required for the performance of this contract, an equitable adjustment may be made in the contract price or period of performance, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of Contractor's receipt of the notice of such change; *Provided*, however, that DRS may, upon determining that the facts justify such action, receive and act upon such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

DISPUTES -- Except as otherwise provided in this contract, when a bona fide dispute arises between DRS and the Contractor and it cannot be resolved, either party may request a dispute hearing with DRS. DRS shall appoint a committee of three qualified persons to conduct the dispute hearing. Members of the committee shall be approved by both parties to the contract. Either party's request for a dispute hearing must be in writing and clearly state:

- A. the disputed issue(s),
- B. the relative positions of the parties, and
- C. the Contractor's name, address and DRS contract number.

These requests must be mailed to the DRS, PO Box 48380, Olympia, WA 98504-8380 within fifteen (15) days after either party receives notice of the disputed issue(s). The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

TERMINATION FOR DEFAULT -- By written notice DRS may terminate the contract, in whole or in part, for failure of the Contractor to perform any of the provisions hereof. In such an event, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., costs relating to solicitation; mailing, advertising and staff time; *Provided*, that if (i) it is determined for any reason the Contractor was not in default, or (ii) the Contractor's failure to perform is without Contractor's and/or Subcontractor's control, fault or negligence, the termination shall be deemed to be a Termination for Convenience.

TERMINATION FOR CONVENIENCE -- Except as otherwise provided in this contract, the DRS may, by five (5) days written notice, beginning on the second day after the mailing, terminate this contract in whole or in part when it is in the best interests of DRS. If this contract is so terminated, DRS shall be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination.

TERMINATION PROCEDURE -- Upon termination of this contract, DRS, in addition to any other rights provided in this contract, may require the Contractor to deliver to DRS any property specifically

produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

DRS shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by DRS, and the amount agreed upon by the Contractor and DRS for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services which are accepted by DRS, and (iv) the protection and preservation of property, unless the termination is for default, in which case the DRS shall determine the extent of the liability of DRS. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. DRS may withhold from any amounts due the Contractor such sum as DRS determines to be necessary to protect DRS against potential loss or liability. The rights and remedies of DRS provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract. After receipt of a notice of termination, and except as otherwise directed by the DRS, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated;
- C. Assign to DRS, in the manner, at the times, and to the extent directed by DRS, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case DRS has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of DRS to the extent DRS may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to DRS and deliver in the manner, at the times, and to the extent directed by DRS any property which, if the contract has been completed, would have been required to be furnished to DRS;
- F. Complete performance of such part of the work as shall not have been terminated by DRS; and
- G. Take such action as may be necessary, or as DRS may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which DRS has or may acquire an interest.

GOVERNING LAW -- This contract shall be governed by the laws of the state of Washington. In the event of a lawsuit involving this contract, venue shall be proper only in Thurston County.

SEVERABILITY -- If any provision of this contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this contract which can be given effect without the invalid provision, and to this end the provisions of this contract are declared to be severable.

NONEXCLUSIVE REMEDIES: -- The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

CONTRACT DRS _____ EXHIBIT B

STATEMENT OF WORK

- A. The audits shall be conducted in accordance with generally-accepted auditing standards. Those standards require that the Contractor plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management as well as evaluating the overall financial statement presentation. The audits provide a reasonable basis for the opinion. The following is the agreed upon plan and timelines for deliverables.

- B. Time is of the essence. In the event the Contractor fails to deliver the work product by the deadline for final audit report, the Contractor shall pay liquidated damages to DRS in the amount of \$500 per day.